



County of Los Angeles CHIEF EXECUTIVE OFFICE

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July 23, 2009

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name and title.

SACRAMENTO UPDATE

This memorandum contains a pursuit of a County position on a bill related to State funding for evidence-based adult probation programs, a report on a court of appeals decision to reverse the Medi-Cal fee reductions ordered by the Legislature in 2008, and the status of five County-advocacy bills.

Pursuit of County Position on Legislation

SB 678 (Leno, Benoit), as amended on June 25, 2009, would provide State funding to support evidence-based practices at the local level for supervision of adult felony probationers. Evidence-based practices refer to those which are demonstrated by scientific research to reduce recidivism among individuals under probation supervision. Funds generated by this program would be derived from State savings resulting from a declining prison population due to county efforts to reduce recidivism of felony probationers. A formula-based system would be used to determine a county's share of the State savings, which must be used to supplement and not supplant other State or county appropriations for probation. Counties would participate in this program on a voluntary basis.

The sponsor of SB 678, the Chief Probation Officers of California (CPOC), notes that probation departments across the State are chronically under-funded, suffering from

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increased caseloads and static funding sources. Forty percent of the new admissions to the State prison system are offenders who have failed on felony probation. Currently there are 350,000 adult offenders on probation supervised by 1,450 deputy probation officers. As a result of the high offender to probation officer ratio, CPOC indicates that over half of probationers are only administratively supervised, with little or no opportunity for a county to prevent future criminal behavior and avoid recidivism.

SB 678 would largely implement recommendations from the May 29, 2009 Legislative Analyst's Office (LAO) report, Achieving Better Outcomes for Adult Probation. The LAO reviewed national research on the effectiveness of probation in improving public safety and found that corrections research supports the use of risk and needs assessments, treatment programs, manageable probation officer caseloads, graduated sanctions for probation violators, and periodic program review and evaluation. According to the research, these practices resulted in more effective supervision, reduced recidivism, better prioritization of limited supervision resources, and reduced incarceration costs.

The funds received by a county from implementation of SB 678 would be allocated to the chief probation officer to: 1) implement and expand evidence-based risk and needs assessments; 2) implement and expand intermediate sanctions including electronic monitoring, mandatory community service, home detention, work furlough programs, and incarceration in county jail for up to 90 days; 3) provide more intensive probation supervision; 4) expand evidence-based rehabilitation programs including drug and alcohol treatment, mental health treatment, anger management, and job training and employment services; and 5) evaluate the effectiveness of rehabilitation and supervision programs.

In a Senate Floor analysis, the author notes that SB 678 is designed to reduce the felony probation failure rate by investing in probation to achieve three key goals:

- reduce crime in the community due to increased supervision of probationers;
- reduce prison overcrowding by decreasing the criminal activity of persons on felony probation; and
- provide a funding source to enhance adult probation programs.

The Probation Department indicates that SB 678 would: 1) provide an additional funding source for the Department; 2) require a reduction in the number of persons on felony probation that are sent to State prison; 3) allow the Department to increase the active supervision of felony probationers and reduce administrative probation supervision; 4) encourage the use of evidenced-based rehabilitation programs for adult

felony probationers; 5) provide funding to evaluate the effectiveness of programs for felony probationers; 6) enhance public safety by reducing the number of crimes that are committed by felony probationers; and 7) increase the number of persons that successfully complete probation and can transition into the community. Currently, the County supervises approximately 60,000 felony probationers that could be affected by this bill.

The Public Defender is concerned that the funding included in SB 678 does not require substance abuse or mental health treatment services. Further, this bill does not provide funding to non-probation agencies within the criminal justice system that would be affected by a change in policy for adult probationers such as the District Attorney, Public Defender, Alternate Public Defender, and the Superior Courts. Finally, the Public Defender is concerned that SB 678 does not provide incentives to adult probationers to complete treatment or rehabilitation programs that would reduce recidivism in this population.

SB 678 is sponsored by the Chief Probation Officers of California, and supported by the California State Association of Counties; California State Sheriffs' Association; Association for Los Angeles Deputy Sheriffs; Riverside Sheriffs' Association; Los Angeles County Deputy Probation Officers' Union, American Federation of State, County and Municipal Employees, Local 685; Friends Committee on Legislation of California; Drug Policy Alliance; Little Hoover Commission; San Diego County District Attorney's Office; and the Sonoma County Board of Supervisors. It is opposed by the California Public Defenders Association.

The Probation Department and this office support SB 678 because funding invested in probation would give counties an opportunity to demonstrate the benefits and results of evidenced-based approaches and help to decrease adult criminal activity. Consistent with Board policy to support funding for adult probation programs to reduce recidivism in the local and State criminal justice system, **the Sacramento advocates will support SB 678.**

SB 678 passed the Assembly Public Safety Committee by a vote of 7 to 0, on June 24, 2009, and was referred to the Assembly Appropriations Committee where a hearing is pending. As an urgency measure, SB 678 would be effective immediately upon enactment.

Court of Appeals Reverses Medi-Cal Fee Reductions

On July 9, 2009, the Ninth U.S. Circuit Court of Appeals ruled that California acted illegally last year to reduce Medi-Cal fees by 10 percent for doctors, pharmacists, and

other providers. The Legislature ordered the cuts to go into effect on July 1, 2008 to help close the State's Budget deficit. On August 18, 2008, a Federal judge issued a preliminary injunction to block the reductions. The court of appeals ruling requires the State to reimburse providers for the fee reductions which were implemented in 2008. The court noted in their ruling that California had violated Federal law that requires states to set rates at levels that will pay for quality care and lead to equal access to health services for the poor. The court further indicated that a budget crisis could not be used as a justification for illegal reductions in the program. According to estimates from the California Department of Finance, the reimbursement to Medi-Cal providers will cost the State approximately \$60 million. County departments report that they are not significantly affected by this decision.

Status of County-Advocacy Legislation

County-supported AB 222 (Adams, Ma), which, as amended on July 8, 2009, would allow a solid-waste to energy conversion facility to count as a renewable electricity generation facility for the purpose of California's Renewable Portfolio Standard, and would allow counties and cities to count solid waste that is converted into electricity or marketable products toward their State-mandated recycling diversion goals, was withdrawn from the July 16, 2009, Senate Environmental Quality Committee hearing at the authors' request and now becomes a two-year bill. Four committee members (Senators Simitian, Hancock, Lowenthal and Pavley) stated at the July 13, 2009, hearing that they were not prepared to act on the bill as of that date. The Committee then defined the parameters of amendments it would entertain at the now-cancelled hearing: 1) an area-specific pilot project; 2) deletion of any reference to diversion credits; and 3) a limitation of the pilot project to green waste only. Cancellation of the hearing on July 16, 2009 is intended to allow the authors and sponsor sufficient opportunity to discuss the future content of the bill.

County-opposed AB 479 (Chesbro), which, as amended on July 20, 2009, would increase the mandatory solid waste diversion from 50 percent to 75 percent by January 1, 2020, and require the owner or operator of a business that contracts for waste services and generates more than four cubic yards of total waste and recyclable materials per week, to arrange for recycling services by January 1, 2011, passed the Senate Environmental Quality Committee with technical amendments on July 16, 2009, by a vote of 5 to 2. The measure now proceeds to the Senate Appropriations Committee.

County-supported AB 521 (De La Torre), which, as amended on June 8, 2009, would authorize a public utility that owns real property acquired to obtain a utility right-of-way, to lease that property to a governmental entity for purposes of a public park, if the public

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utility would retain the use of the right-of-way easement for public utility purposes, passed the Senate Energy, Utilities, and Communications Committee on July 7, 2009, by a vote of 11 to 0, and now proceeds to the Senate Floor.

County-opposed-unless-amended AB 1409 (J. Pérez), which, as proposed to be amended in Committee on July 16, 2009, would have required counties to choose between the Uniform Public Construction Cost Accounting Act and existing road commissioner authority as a basis for a county's specified streets and highway projects, and would have allowed a county to reinstate the provisions of the Act for the road department, in a given fiscal year, if a resolution of the board of supervisors makes findings that the road commissioner authority will not be utilized, was withdrawn from the Senate Transportation and Housing Committee calendar on July 16, 2009, at the author's request and now becomes a two-year bill.

County-supported SB 113 (Senate Local Government Committee), which, as amended on June 25, 2009, is an omnibus bill that contains three provisions supported by the County to: 1) authorize a County Board of Supervisors to form a School Facilities Improvement District in an individual school district; 2) revise the Public Contract Code to align the requirements for County Waterworks Districts to contract for non-construction related work with the contracting requirements for County government to perform similar work; and 3) revise the Water Code, to allow county waterworks districts to advance water reliability projects and water system facility construction, passed the Assembly Appropriations Committee on July 15, 2009, by a vote of 16 to 0, and now proceeds to the Assembly Floor.

We will continue to keep you advised.

WTF:RA
MR:VE:sb

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants